

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN THE  
STATE OF MONTANA  
DEPARTMENT OF FISH, WILDLIFE & PARKS  
AND THE  
MONTANA PUBLIC EMPLOYEES ASSOCIATION  
FOR  
FISH AND GAME WARDENS**

**2007 - 2009**

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THIS AGREEMENT is made and entered into this 30th day of August, 2007, between the State of Montana by and through the Department of Fish, Wildlife & Parks, hereinafter referred to as the "Employer," and the Montana Public Employees Association, Inc., hereinafter referred to as the "Association." It is the intent and purpose of this Agreement to assure sound and mutually beneficial working relationships between the Employer and its employees, to provide an orderly and peaceful means of resolving grievances, to prevent interruption of work and interference with the efficient operation of the Department of Fish, Wildlife & Parks, and to set forth herein a basic and complete Agreement between the parties concerning terms and conditions of employment which are not otherwise mandated by statute. It is understood that the Employer is engaged in furnishing an essential public service which vitally affects health, safety, comfort, and general well being of the public and both parties hereto recognize the need for continuous and reliable service to the public.

**ARTICLE 1  
DEFINITION OF TERMS**

**1.1** Tense, Number, and Gender. As used in this Agreement:

- A. Words in the present tense include the past and future tenses, and words in the future tense include the present tense.
- B. Words in the singular number include the plural, and words in the plural number include the singular.
- C. Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

**1.2** Definitions:

- A. "Employee" in this Agreement means the Fish & Game Wardens and Criminal Investigators employed in full time positions by the Department of Fish, Wildlife & Parks, who are assigned to the Enforcement Division and designated by the Board of Personnel Appeals as a part of or member of the bargaining unit.

- B. "Job Profile" is a written statement of duties and responsibilities which are characteristic of a class of positions and includes the education, experience, knowledge, and ability required to perform the work of the class of positions.
- C. "Disciplinary Grievance" in this Agreement means a procedure of review provided for in Article 10 whereby a permanent employee can seek review of his/her dismissal, demotion or a single suspension in excess of 15 days.
- D. "Personnel File" in this Agreement means all those documents, reports, written, or otherwise recorded evaluations of a person's performance while performing duties on behalf of the Employer, and any other material pertaining to that person that is kept in that file.
- E. "Just Cause" means, but is not limited to, incompetence, unsatisfactory performance of duties, unexcused absenteeism, dishonesty, or gross disobedience.
- F. "Continuous Service" in this Agreement shall mean an employee's length of continuous service in the Department as a Fish and Game Warden.
- G. "Work Day" - A normal work day shall consist of eight hours in a 24-hour period.
- H. "Work Week" - A normal work week shall consist of five eight-hour days within the calendar week of Saturday through Friday.

## **ARTICLE 2**

### **DURATION OF AGREEMENT**

2.1 This Agreement shall be effective as of the 1st day of July, 2007, and shall remain in full force and effect through the 30th day of June, 2009. Either party shall notify the other in writing no more than 180 days and not less than 60 days prior to the expiration date that they desire to modify this Agreement.

2.2 If the Association gives such notice, it agrees also to notify the Chief, State Office of Labor Relations, Department of Administration in writing of such requested negotiations, at the same time such notice is given to the agency. In the event such notice is given, negotiations shall begin not later than 30 days prior to the expiration date.

2.3 It is agreed that the State and Association will reopen negotiations on applicable economic issues sufficiently in advance of the executive budget submittal to insure time for negotiations to take place. Such budgetary negotiations will be deemed completed in good faith when the negotiated results are submitted to the next legislature in the executive budget, by bill or resolution.

2.4 Both parties hereby agree to support unequivocally at the legislative level all of those items agreed to in such budgetary negotiations.

### **ARTICLE 3**

#### **MANAGEMENT RIGHTS**

3.1 Management rights shall be retained and exercised in accordance with the provisions of 39-31-303, M.C.A. except as such rights as are specifically relinquished in this Agreement.

3.2 It is the right of the Employer in order to maintain efficient governmental operations solely and exclusively to set standards of service and to exercise control and discretion over its operations. It is also the exclusive right of the Employer to direct its employees, to hire, promote, demote, assign work, transfer employees, relieve its employees from duty because of lack of work, or for other legitimate reasons, to discipline, suspend, discharge for cause, to establish the number and starting time of shifts, work week, work day, and to control and regulate the use of all equipment and other property of the Employer and to require employees to observe the Employer's rules and regulations except as such rights are specifically relinquished in this contract.

### **ARTICLE 4**

#### **MANAGEMENT-ASSOCIATION SECURITY**

4.1 The Association hereby accepts liability for any damage to or loss of State property that is the proximate cause of action taken by striking employees of the bargaining unit.

4.2 The Association, any of its officers, agents, or any employee covered by this Agreement will not instigate or promote any strike, picketing, boycotting, sit downs or slow down strikes, during the term of this Agreement. The Employer agrees not to in any way lock out, restrain or interferes, in the right of any employee or group of employees covered by this Agreement, in the normal conduct of their position during the term of this Agreement.

4.3 In the event of a strike, a responsible official of the Association, after determining such members are members of the Association, will order such members to return to work and attempt to resolve the problems which led to the concerted activity.

4.4 The Association has the right to engage in concerted activity after December 31, 2008, for matters pertaining to wages and economic benefits in the 2010-2011 biennium.

### **ARTICLE 5**

#### **RECOGNITION**

5.1 The Department of Fish, Wildlife & Parks recognizes the Montana Public Employees Association, Inc., as the exclusive collective bargaining representative for those Fish & Game Wardens and Criminal Investigators that the Association is authorized to represent for the purpose of collective bargaining with respect to rates of pay, hours of employment and other conditions of employment.

5.2 It is further understood and agreed that the Executive Director or an alternate of the Montana Public Employees Association, Inc., will be the official spokesman for said Association in any matter between the Association and the Employer. The alternate shall be selected from one of the Association's representatives.

5.3 Any alternate designated by the Executive Director shall be designated in writing within seven calendar days of his/her designation and the period of time covered by such designation shall be included in such written notification.

5.4 A written list of accredited officers and representatives of the Association, Fish & Game Wardens Chapter, shall be furnished to the Director of the Department immediately after their designation and the Director shall be notified of any changes of said representatives within seven calendar days. A copy of the published personnel roster of the enforcement division will be furnished to the Association whenever such roster is updated.

5.5 Upon receipt of a written authorization from an employee covered by this Agreement, the Employer will deduct from the employee's pay the amount owed to the Association by such employee for dues, or a representation fee. It is understood that this provision will provide for 24 deductions per year. The Employer will remit to the Association such sums within 30 calendar days. Changes in the Association membership dues rate and representation fees will be done to the Employer in writing over the signature of the authorized officer or officers of the Association and shall be done at least 30 calendar days in advance of the effective date of such change. The Employer's remittance will be deemed correct if the Association does not give written notice to the Employer within two calendar weeks after a remittance is received, of its belief with reason(s) stated therefore, that the remittance is incorrect.

5.6 The Association will indemnify, defend, and hold the Employer harmless against any claim made and against any suit instituted against the Employer, including attorneys' fees and costs of defense thereof, on account of any check-off of Association dues or representation fees.

5.7 An employee may revoke in writing at any time his/her authorization for dues or representation fees deduction. Said revocation shall be effective as of the beginning of the next pay period.

5.8 No deduction shall be made from the pay of any employee for any payroll period in which the employee's earnings for that payroll period, after other deductions, are less than the amount of dues or representation fees to be checked off.

5.9 Employees covered by the terms of this Agreement shall not be required to become members of the Association but must, as a term and condition of employment, pay a representation fee to the Association.

5.10 All employees covered by the terms of this Agreement shall within 30 days of the signing of this Agreement, pay dues or a representation fee to the Association. New employees hired after the signing of this Agreement shall as a term and condition of employment, pay dues or a representation fee to the Association. Employees who fail to comply with this requirement shall be discharged by the Employer within 30 days after receipt of written notice by the Association.

## **ARTICLE 6**

### **NON-DISCRIMINATION CLAUSE**

6.1 No member of the Association shall be discharged or discriminated against for upholding Association principles. The Employer and the Association affirm their joint opposition to any discriminatory practices in connection with employment, promotion, or training, remembering that the public interest requires the full utilization of the employees' skill and ability without regard to race, color, creed, national origin, sex, or political ideas.

6.2 In accordance with the provision of Chapter 3, Title 49, M.C.A., "Governmental Code of Fair Practices," the Employer shall recruit, appoint, assign, train, evaluate, and promote its employees on the basis of merit and qualification, without regard to race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin, or ancestry. The Employer may not enter into any benefit plans such as retirement, pension, or insurance plans which may be construed as subterfuges to evade the purposes of the Code. The Employer may, however, enter into bona fide seniority system programs that are not structured to perpetuate any past discriminatory practices.

## **ARTICLE 7**

### **ASSOCIATION ACTIVITIES**

7.1 It is recognized that Fish and Game employees representing the Association for purposes of negotiations or other activities relating to the administration of this Agreement, are acting on behalf of the Association and its members and not in their capacity as employees of the Employer.

7.2 Employer's equipment shall not be used for Association purposes, except that:

- A. It is understood by the parties of this Agreement that Association meetings of reasonable duration may be held in conjunction with regularly scheduled regional or division meetings and that any time so used, will not be considered part of a regular work shift. It is further understood and agreed that the regional association representative will conduct such meetings.
- B. It is understood by both parties of this Agreement that special meetings may be called by mutual agreement during the month immediately following the conclusion of negotiations, ratification, and signing of the Agreement. At such meetings the Executive Director or his/her assistant and the regional association representative in conjunction with Management shall explain the provisions of the contract.

7.3 The Employer shall allow one meeting prior to commencement of negotiations of the regional representatives to settle contract proposals. Regional representatives shall be allowed to "patrol" to and from such meetings in uniform. Per diem for one night, and salary during such patrol time, shall be paid by the Employer, but no per diem or salary will be paid during such meeting time.

## **ARTICLE 8**

### **PAY AND HOURS OF WORK**

8.1 Pay will be in accordance with the Department of Fish, Wildlife and Parks pay plan guidelines.

8.2 Each employee will have the responsibility to manage his/her time to the benefit of the Department and in compliance with the terms of this Agreement. Employees will vary work schedules sufficiently so that specific work patterns are not evident to the public.

8.3 Warden captains and/or sergeants will utilize a department planning process that includes performance goals set during performance appraisals, statewide and regional priorities, and input from each warden when determining when hours over 80 in a pay period will be worked. Each warden will be given guidelines of when hours over 80 in a pay period may be worked. All approved hours worked over 80 in a pay period will be compensated at one and one-half hours for each hour worked. When overtime funds are budgeted and available, employees will receive overtime pay at the above rate. When overtime funds are exhausted, employees will receive compensatory time at one and one-half hours for each hour worked above 80 in a pay period.

8.4 Wardens may not exceed a maximum of 120 hours of compensatory time. Compensatory time balances must be reduced to zero by the last day of the last pay period in August (beginning in August 2002). This provision shall not apply to criminal investigators.

8.5 Job related travel shall be considered as normal work time, for the purposes of this Article.

8.6 Authorized holiday leave, sick leave, or annual leave shall constitute time worked when computing overtime credits under this Article.

## **ARTICLE 9**

### **NOTIFICATIONS**

9.1 The Department of Fish, Wildlife & Parks shall give the Association advance notice of at least 14 days and an opportunity to comment on any layoff, including a list of the employees affected.

9.2 The Employer shall insure reasonable access to the Association and each employee an up to date policy manual of its rules, regulations, and policies on employment related

matters. The Association shall be notified of any change or additions to personnel rules, regulations, and policies issued by the Department of Administration and the individual departments, sufficiently in advance to allow discussion and comment by the Association.

## **ARTICLE 10**

### **GRIEVANCE AND ARBITRATION**

**10.1** Having a desire to create and maintain labor relations harmony between them, the parties hereto agree that they will promptly attempt to adjust all complaints, disputes, controversies, or other grievances arising between them involving questions or interpretations or applications of terms and provisions of this Agreement or any other controversy or dispute having occasion to arise between the parties.

If differences or disputes of any kind arise between the Association or the employees covered herein and the Employer, the Association or the aggrieved employee or employees, as the case may be, shall use the following procedure as the means of settling said difference, dispute, or controversy:

Step 1: Any grievance, controversy, or dispute relative to this Agreement shall first be taken up with the employee or employees and his/her immediate supervisor, within 10 days of such grievance.

Step 2: If such controversy or dispute cannot be adjusted in this manner, it shall be presented to the regional supervisor in writing, within five days of Step 1. The Supervisor shall have 10 days to respond.

Step 3: If no settlement can be reached at Step 2, it shall be presented in writing to the director, or his/her designee, within 5 days of Step 2, who shall then have 15 days from the date of receipt to reply.

Step 4: If the aggrieved employee is still dissatisfied he/she may request binding arbitration or the alternative procedure referenced in Section 10.1 below, Rules of Grievance Processing, g.

### **RULES OF GRIEVANCE PROCESSING**

It is agreed:

- A. The employee must submit a grievance to his/her immediate supervisor (Step 1) within 10 working days after the grievance occurred.
- B. The time limits at any stage of the grievance procedure may be extended by written mutual agreement of the parties involved at that step.



- C. Grievance presented at Step 2 and above shall be dated and signed by the aggrieved employee presenting it. A decision rendered shall be written to the aggrieved employee and shall be dated and signed by the employer's representative at that Step.
- D. A grievance not advanced by the employee to the next higher step within the time limit provided shall be deemed permanently withdrawn and as having been settled on the basis of the decision most recently given.
- E. In computing time limits under this Article, regularly scheduled days off shall not be counted.
- F. When the grievance is presented in writing there shall be set forth all of the following:
  - 1. A complete statement of the grievance and facts upon which it is based.
  - 2. The rights of the individual claimed to have been violated; and the remedy or correction requested.
- G. Those employees desiring to use the alternative procedure through the Board of Personnel Appeals shall not be allowed to pursue the same complaint under the provisions of this contractual procedure.

## 10.2 ARBITRATION

- A. Should the aggrieved employee or employees and the Association consider the decision of the Director to be unsatisfactory, the Association shall, within 10 days of receipt of such decision, notify the Director, in writing, of its intention to have such grievance referred to arbitration.
- B. In the event of a job classification related grievance, the grievance shall be submitted to the Board of Personnel Appeals for final resolution.
- C. Where question arises as to whether the matter falls under the jurisdiction of the Board or should be referred to arbitration the matter shall be referred to the Board for decision.
- D. Thereupon in all events, within 10 days after such written notice of intention is delivered to the Director, the Association and the Director shall call on the Federal Mediation and Conciliation Service to provide a list of five persons from either the American Arbitration Association or the National Academy of Arbitrators.
- E. Each party shall be entitled to strike two names from the list in alternate order and the name so remaining shall be the arbitrator. The arbitrator shall consider the grievance within 15 days of selection and shall render a decision within 15 days of the hearing, and that decision shall be final and binding.

- F. Each party shall share equally the cost of the impartial arbitrator. In the event one of the parties wants transcripts from the proceedings of the arbitration, the party requesting the transcripts shall pay all costs. If each party requests transcripts, they shall equally share the cost.
- G. During the processing of any matter under this or the preceding steps, the Association agrees not to strike, render unfair reports, or cause slow down, and the Employer agrees not to lock out employees represented by the union.
- H. The employee may request the Association to act as his/her representative or to assist in any way desired in following the recourse of the grievance procedure and shall so notify the Employer.
- I. Any failure or refusal to abide by the terms of this grievance or arbitration procedure shall constitute a waiver by the party who breaches the Agreement, of the rights and constraints created by the above grievance and arbitration clause.
- J. No arbitrator shall have the power to add to, detract from, or modify the terms of this Agreement.

## **ARTICLE 11**

### **SENIORITY AND LONGEVITY**

11.1 Longevity will be computed and compensated for in accordance with the provisions of the State Pay Plan Rules promulgated by the Department of Administration.

11.2 Seniority means an employee's length of continuous service with the Department of Fish, Wildlife & Parks since the last date of hire. Seniority shall be computed from the date the employee began regular uninterrupted service with the Department.

A. Seniority shall be considered unbroken for:

- 1. Layoff not exceeding one year;
- 2. Leave without pay not in excess of 60 days except when such leave is granted in case of illness;
- 3. Or military service resulting from the draft.

B. Time worked as a warden trainee shall also be counted toward seniority.

11.3 Seniority shall not accrue when an employee transfers to a position not covered by this Agreement or when he/she terminates employment. However, upon transfer or rehire into a position covered by this Agreement, previously earned seniority as a bargaining unit employee shall be recognized and applicable under this Article.

11.4 A. Any game warden covered by this Agreement who was assigned and served as a criminal investigator prior to CIS wardens being incorporated into the warden bargaining unit will be granted seniority for any and all service during that time period.

B. Vacant or newly created warden positions open for permanent assignment will first be opened to post-certified wardens, warden sergeants, warden captains, and Helena enforcement staff. Temporary warden assignments will last no longer than 12 months. If an eligible person applies, the position will not be opened to applicants outside the enforcement division. CIS positions will be filled by open recruitment. Seniority, qualifications, and capabilities shall be the controlling factors in filling new or vacant positions. The scoring system shall be a 300-point system with qualifications and capabilities being worth 200 points and seniority being worth up to 100 points. Seniority shall be determined by giving each applicant five points for each year of service with a maximum of 100 points allowed for 20 years of service. The applicant gaining the most points will be recommended for the position to the hiring authority. If the vacant or newly created position becomes vacant within six months of it being filled, Management may use the original pool of applicants to fill the vacant position.

C. Newly hired employees with at least 30 months of service at the time of transfer are eligible to apply for transfer. Eligibility is determined by the projected transfer dates listed on the vacancy announcement. After the initial 30 months, employees are eligible to transfer at any time subject to the department's moving policy. Although newly hired wardens are committed by contract to remain 30 months in their first warden station, they are eligible to apply for transfer at the time of posting, upon completion of 24 months in their first station. Wardens with 24 months may only compete if no wardens with 30 months or more apply. Once newly hired employee is granted the vacant position Management will determine the date of the transfer to the vacant position.

D. If no qualified applicants apply for the vacant position, Management retains the right to transfer (involuntarily if necessary) an employee to allow continuity of department coverage in an area.

11.5 Employees to be laid off shall be given two weeks advance notice.

11.6 In the selection of employees for layoff, consideration will be given to the programs to be carried out by the Employer and the staff structure which, after the reduction, will achieve program objectives. Accordingly, employees will be selected for layoff only after consideration has been given to position classification, skills and geographical location. If all the above factors are equal, seniority shall be the deciding factor in the determination of selection for layoff.

11.7 Recall from layoff shall be with the same consideration as in paragraph 11.6. The Department shall notify such employees to return to work and furnish the Association a copy of such notification and if the employee fails to notify the Department within 14 days

of his/her intention to return to work, such employee shall be considered as having forfeited his/her right to return to work.

11.8 No permanent employee shall be laid off while temporary, part-time, or probationary employees in the same skill are retained.

## **ARTICLE 12**

### **UNIFORMS AND EQUIPMENT**

12.1 Uniform and equipment issues will be administered in accordance with the Department of Fish, Wildlife and Parks policy. Proposed changes in uniform and equipment policy that would have a material or substantial effect on members of the bargaining unit shall be subject to bargaining between the Employer and Association.

## **ARTICLE 13**

### **SAFETY, HEALTH AND TRAINING**

13.1 Protective devices, wearing apparel, and other equipment necessary to protect employees from injury shall be provided by the Employer in accordance with practices now prevailing by the Department in compliance with mandatory OSHA standards. Such practices may be improved from time to time by the Employer. The Association may be requested to comment on improvement of such practices, but such comments are advisory only. Such protective devices, apparel, and equipment, when provided, must be used and the Association agrees that willful neglect and failure of the employee to obey safety regulations and to use safety shall be just cause for disciplinary actions.

13.2 Protective devices, wearing apparel, and other equipment necessary to protect employees from injury as provided for in this Article shall be and remain the property of the Employer. Such articles shall be kept in a state of cleanliness and repair at all times and, if, upon inspection it is determined that any such article is not maintained as required, cost of such article shall be charged to the member to whom it was issued.

13.3 The Association will be given the opportunity to comment on changes to the current training program. Comments shall be communicated by committee membership or written response.

## **ARTICLE 14**

### **HOLIDAYS**

14.1 Employees shall observe the following as holidays in the State of Montana:

New Year's Day .....	January 1
Martin Luther King Jr. Day .....	Third Monday in January
Washington's and Lincoln's Birthday .....	Third Monday in February
Memorial Day .....	Last Monday in May
Independence Day .....	July 4
Labor Day .....	First Monday in September
Columbus Day .....	Second Monday in October
Veteran's Day .....	November 11
Thanksgiving Day .....	Fourth Thursday in November
Christmas Day .....	December 25
State General Election Day .....	On even numbered years

**14.2** The holidays listed in Section 14.1 shall be granted at the regular rate of pay to all eligible employees.

**14.3** All holidays worked will be compensated at one and one-half hours for each hour worked, plus regular holiday pay. When overtime funds are budgeted and available, employees will receive pay for the time-and-one-half benefit for approved hours worked on the holiday. When overtime funds are exhausted, employees will receive compensatory time for the time-and-one-half benefit.

**14.4** Any full-time employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday in the same pay period or as scheduled by the employee and his supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off.

## **ARTICLE 15** **SICK LEAVE**

**15.1** Employees of the bargaining unit are entitled to sick leave benefits as set forth for all State employees in 2-18-618, M.C.A., and as pronounced by the Department of Administration in its Administrative Manual.

## **ARTICLE 16** **ANNUAL LEAVE**

**16.1** Employees of the bargaining unit are entitled to annual leave benefits as set forth for all State employees in the Montana Code Annotated, 1979.

**16.2** Leave without pay. A leave of absence without pay may be granted by the Director upon written request of the employee. The request shall state the reason for the leave and the length of time off the employee desires. Accrued vacation leave may be retained by the employee insofar as the law allows.

## **ARTICLE 17**

### **RIGHTS ON PROMOTION**

17.1 An employee shall not forfeit his/her right to turn down a promotion and maintain his/her present rank and station without fear of reprisal.

## **ARTICLE 18**

### **DUTIES AND RESPONSIBILITIES**

18.1 The Employer's rules and regulations shall outline the duties and responsibilities for which the employees are held accountable.

## **ARTICLE 19**

### **TELEPHONE**

19.1 It is agreed by both parties to this Agreement that the nature and conditions of employment as a Fish and Game Warden make it mandatory that each member have telephone service in his/her home. It is further agreed and understood that such telephone service be listed under the employee's name and may, at the employee's option, also be listed under the Fish, Wildlife and Parks Department in the regular telephone directory.

The Employer agrees to pay each employee \$100 for purchase and maintenance of telephone instruments for the employee's use. The instruments will be the property of the employee. Any repairs to or replacement of the instruments will be the responsibility of the employee. Employees may receive, upon submitting proper written proof to the Department, up to \$100 to defray telephone maintenance costs during the term of this Agreement. Any monthly charge for maintaining a phone in a residence will be borne by the Employer.

## **ARTICLE 20**

### **PERSONNEL RECORD**

20.1 An employee may request and receive a copy of his/her current job profile and market pay data kept by the department at any time.

20.2 When performance appraisals are prepared by the employee's immediate supervisor and the next higher supervisor, the results of the combined evaluation shall be transmitted to the employee in the form of a copy of his/her performance appraisal.

20.3 The immediate supervisor shall discuss the performance appraisal with the employee and note by signature retained in the personnel file that the appraisal has been discussed with the employee. The employee may submit a brief written statement in response to ratings or remarks on the performance appraisal form. Such statements will be attached to the performance appraisal form in the personnel file.

20.4 If an employee disagrees with the merit rating evaluation and desires a review by a higher authority, he/she may process his/her objection through the grievance procedure.

20.5 An employee desiring that material which he/she feels is incorrect or derogatory towards him/her and should be removed from the personnel file of the employee, shall have the right to appeal it through the grievance procedure.

20.6 Material placed in the personnel file of an employee without conformity with the provisions of this Section will not be used by the Employer in any subsequent evaluation or disciplinary proceeding involving the employee.

20.7 No information reflecting critically upon an employee shall be placed in the Employer or employee's records that does not bear either the signature or initials of the employee indicating that he/she has been shown the material, or a statement by a supervisor that the employee has been shown or mailed the material and refused to affix his/her signature or initials. A copy of any such material shall be furnished to the employee upon request.

20.8 The Association representative with the employee's written permission, shall have the right to examine an employee's personnel file upon notification and presentation of such written permission to the Employer. The Employer shall make available original or copies of the original records for examination in Fish, Wildlife & Parks offices by the Association representative.

20.9 Letters of caution, warning, and reprimand shall be considered temporary contents of the personnel file of an employee and shall be destroyed no later than 18 months after they have been placed in the file, and notices of suspension shall be destroyed no later than three years after they have been placed in the file, unless such items can be used in support of possible disciplinary action arising from more recent employee action or behavior patterns or are applicable to pending legal or quasi-legal proceedings.

20.10 No secret files shall be kept on any employee.

20.11 Personnel Complaint Procedure. It is important that all personnel problems and complaints be addressed, investigated, and resolved as quickly as possible.

The following procedure is to be used for dealing with inquiries or complaints regarding the activities of department employees.

Purpose: It is the intent and purpose of this procedure to provide the public with a mechanism to make the department aware of alleged and/or perceived personnel problems, and at the same time, give department employees protection from unfounded or malicious accusations. Supervisors and management personnel are reminded, however, that they have the responsibility to take the necessary action to deal with subordinate employees if they are aware of problems or improper actions. It is not necessary that a complaint be filed through this procedure in order to take management action.

Definition: A personnel complaint is defined as a written statement, originated and signed by the complainant and submitted to the department within 60 days of the cited incident, that describes an alleged improper action by an employee of the department. This statement shall be based on actual observation of inappropriate behavior rather than the incident that generated the opportunity to express dissatisfaction with practices, procedures, regulations, or laws upon which the actions of a department employee are based. Complaints of a superficial nature do not warrant the expense of this entire formal procedure and may be dismissed at any step by the Director.

Rules:

1. All personnel complaints will be addressed, investigated, and resolved as quickly as possible.
2. All personnel complaints will be handled in a confidential manner.
3. Complaints regarding regional supervisors or division administrators will be referred to the Director's office for processing.
4. If circumstances warrant, someone from outside the region may be assigned to investigate the complaint, as determined by the Director.
5. All complaints and proposed recommendations and actions will be reviewed by the legal staff for advice on legal implications.
6. A complaint may be dismissed by the Director at any step of the process if it becomes apparent that it is of a frivolous or vindictive nature.
7. The employee who is the subject of the investigation has the right to be represented by legal or other counsel at any point in the process. This may include an MPEA representative.
8. The Director may delegate his/her responsibilities to another person.

Steps: (Time limits for completion of each step are in parentheses)

1. Step 1 - Receipt and Notification (10 days)
  - a. The original complaint letter will be immediately forwarded to the Director's office with a copy to the administration and finance division administrator. The affected employee will get a copy of the complaint at this time unless there is the possibility of a criminal investigation.
  - b. A letter from the Director acknowledging receipt of the complaint will be sent to the complainant with a copy to the affected department employee.



- c. The complaint will be sent to the appropriate administrator or regional supervisor for investigation and recommendations.
- 2. Step 2 - Investigation and Recommendation (20 days)
  - a. It will be the administrator's or regional supervisor's responsibility to see that the complaint is properly investigated. A written statement will be obtained from the affected department employee(s) and others who may have personal knowledge or information about the complaint.
  - b. The employee's statement and any other pertinent facts revealed in the investigation will be forwarded to the personnel office and must include a suggested course of action and a reply for the Director to send to the complainant.
- 3. Step 3 - Panel Review (5 days)
  - a. A three-member panel consisting of the department personnel manager, the affected division administrator, and a third person who is not a member of the division will review the written statements and evidence along with the regional supervisor's recommendations.
  - b. If the panel's review reveals no need for additional investigation and no grounds for disciplinary action, a response to the complainant will be drafted for the Director's signature with a copy to the affected employee.
  - c. If further investigation appears to be necessary or desirable, recommendations will be forwarded to the regional supervisor.
  - d. If the review reveals grounds for disciplinary action, the regional supervisor's and panel's recommendations to the Director will be in writing.
- 4. Step 4 - Director's Action (5 days)
  - a. When the Director reviews a recommendation for disciplinary actions, he/she will review the matter with the panel. The Director will determine the appropriate disciplinary action.
  - b. Upon final resolution of the incident, a written response to the complainant will be drafted for the Director's signature.
  - c. Any disciplinary action is grievable through the grievance procedure.

## **ARTICLE 21**

### **JOB SECURITY**

**21.1** Probationary Period. The probationary period shall be utilized for the most effective adjustment of a new employee and for the elimination of any employee whose performance does not, in the judgment of his/her supervisor, meet the required standard of performance.

- A. The probationary period shall be one year.
- B. If the Employer determines at any time during the probationary period that the services of the probationary employee are unsatisfactory, the employee may be separated upon written notice from the Employer.

**21.2** Dismissal. The Employer may remove any employee with permanent status only for just cause. The Employer shall furnish the employee with a statement, in writing, of the grounds and the specific reasons for dismissal.

- A. An employee, with permanent status, may appeal his/her dismissal through the grievance procedure.
- B. Any suspension which results in time off without pay may be appealed through the grievance procedure.

**21.3** In cases of discipline, suspension, or demotion the department agrees to notify the Association in writing concurrent with commencement of the action.

**21.4** Each employee shall give the department two weeks notice before leaving his/her employment, unless mutually agreed beforehand between the department and the employee.

## **ARTICLE 22**

### **TRAINING OFFICER COMPENSATION**

**22.1** Wardens who are assigned to and actively perform the duties of FTO, firearms instructor and PPCT instructor and serve in that capacity for at least 40 hours in a contract year shall receive \$100 in compensation.

## **ARTICLE 23**

### **LABOR-MANAGEMENT WORKING GROUP**

**23.1** In an effort to facilitate communication between labor and management, a labor-management working group shall be established. This group is not intended to replace the collective bargaining process, and neither party will be bound by any outcomes or recommendations that come from this group.

**ARTICLE 24**  
**PRINTING OF AGREEMENT**

24.1 The Association shall furnish each new employee and all current employees with a copy of this Agreement.

**ARTICLE 25**  
**JOB POSTING**

25.1 All employees will be notified of all newly created or vacant bargaining unit positions and permanent, full-time positions which could be considered to be a lateral transfer or promotional in the department, before the closing of applications for such positions.

25.2 All permanent warden positions in the State and their patrolling area will be designated in writing. Further, all probationary positions and their patrolling area will be designated in writing.

**ARTICLE 26**  
**SEVERABILITY**

26.1 In the event that any provision of this Agreement shall be declared invalid at any time or unenforceable by any court of competent jurisdiction or through government regulations or decree, such decision shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid or unenforceable, shall remain in full force and effect.

**ARTICLE 27**  
**ENTIRE AGREEMENT**

27.1 The parties acknowledge that during negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Association for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter specifically referred to or covered in this Agreement, or not specifically referred to or covered in this Agreement, even though such subjects or matters may, or may not, have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement. This Article shall not be construed to in any way restrict parties from commencing negotiations under the applicable law on any succeeding Agreement to take effect upon termination of this Agreement.

IN WITNESS WHEREOF, the parties hereby affix their signatures as of this \_\_\_\_\_ day  
of \_\_\_\_\_, 2007.

For: State of Montana

For: Montana Public Employees  
Association

\_\_\_\_\_  
Jeff Hagener, Director  
Department of Fish, Wildlife &  
Parks

\_\_\_\_\_  
Quinton Nyman  
Executive Director

\_\_\_\_\_  
Paula Stoll, Chief  
State Office of Labor Relations

\_\_\_\_\_  
Tom Bivins, Spokesperson  
MPEA

\_\_\_\_\_  
Unit Representative

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**State of Montana,**  
**Department of Fish, Wildlife and Parks**  
**and the**  
**Montana Public Employees Association**  
**for**  
**Fish and Game Wardens**

**Wages and Overtime**

**Pay raises.** Every member of the bargaining unit shall receive a wage increase equal to the wage increase legislated for employees in House Bill 13 (3% beginning the first full pay period that includes October 1, 2007 and 3% beginning the first full pay period that includes October 1, 2008.) Further entry warden pay will be \$15.72 per hour and will progress 3% each year of the biennium beginning the first full pay period that includes October 1, 2007. The Employer's share toward the health insurance premium will be increased to the amount contained in House Bill 13.

Fish, Wildlife and Parks will pool the 0.6% discretionary funds available October 1, 2007 to be distributed equally to all wardens who are successfully meeting job expectations as documented in their performance evaluation. Employees who are on a performance improvement plan will not be granted a pay raise beyond the 3%.

Fish, Wildlife and Parks will pool the 0.6% discretionary funds available October 1, 2008 to be distributed equally to all wardens who are successfully meeting job expectations as documented in their performance evaluation. Employees who are on a performance improvement plan will not be granted a pay raise beyond the 3%.

Wardens and new hires, who are hired into the investigator ranks will be hired at 90% of the base pay of the highest paid investigator and, advance to 100% upon successful completion of their probationary period.

Investigators who return to a warden position will have six months pay protection at their investigator rate of pay. After the pay protection has expired, the warden will then be placed at the appropriate wage level commensurate with other wardens with same or similar years of service as a Montana game warden with similar qualifications.

**Overtime**

As long as overtime funds remain budgeted and authorized by the legislature for fiscal years 2008-2009, each warden will have the opportunity to earn 80 hours of overtime pay per year, subject to a plan of use developed within the warden's region and authorized by the warden's captain. Upon agreement and approval of the region warden captain, a warden may receive compensatory time in lieu of overtime. This Agreement shall not supersede any legislative authority over the budget.

In the event that overtime funding can be obtained from sources other than the legislatively approved overtime funding, wardens who qualify for any opportunity can be paid overtime in that manner without regard to the overtime hours stipulated in this agreement. All overtime proposals must be pre-approved by the Director of Fish, Wildlife and Parks.

**Advisory Committee.**

A division-wide Advisory Committee made up of two bargaining unit employees, two management representatives, a union representative and a department human resource representative will be formed in the 2007-09 contract term. The Committee will study performance incentives, accountability, market sources, overtime, funding opportunities, and other opportunities for making warden career pay more competitive to enhance recruitment and retention of its members. The Committee will submit its recommendations during the executive planning process. Those recommendations will be non-binding. Should the department and the union agree to specific proposals, those proposals will be conditioned upon legislative passage and approval.

This Memorandum of Understanding is agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2007, and expires June 30, 2009.

For: State of Montana

For: Montana Public Employees  
Association

\_\_\_\_\_  
Jeff Hagener, Director  
Department of Fish, Wildlife &  
Parks

\_\_\_\_\_  
Quinton Nyman  
Executive Director

\_\_\_\_\_  
Paula Stoll, Chief  
State Office of Labor Relations

\_\_\_\_\_  
Tom Bivins, Spokesperson  
MPEA

\_\_\_\_\_  
Unit Representative

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN THE  
STATE OF MONTANA,  
DEPARTMENT OF FISH, WILDLIFE AND PARKS  
AND THE  
MONTANA PUBLIC EMPLOYEES ASSOCIATION  
FOR  
FISH AND GAME WARDENS**

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